IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 759 OF 2005

Vipul Amritlal Shah .. Appellant

Vs.

The Municipal Corporation of
Greater Mumbai. .. Respondent

Mr. G.S. Godbole with Ms. Nisha Valani for appellant.
Ms. Geeta Joglekar for Respondent.

CORAM: B.H. MARLAPALLE, J.

Date : July 25, 2005.

P.C.:

1. Heard Mr. Godbole with Ms. Valani the learned counsel for the appellant who has impugned the order dated 5-7-2005 passed in Notice of Motion No.2859 of 2003 moved in L.C. Suit No.3566 of 2003. By the said order the learned Judge of the City Civil Court at Mumbai declined to grant any order of temporary injunction against the impugned notices dated 10-6-2003 ad 18-7-2003.

2. The respondent-Corporation had issued a show

cause notice under Section 351 of the Mumbai Municipal Corporation Act, 1888 and the said notice was served on the appellant-plaintiff on 10-6-03. The reply submitted by him through the Advocate was considered and by the order dated 18-7-03 he was informed to remove the unauthorised structure within 15 days from the receipt of the order. The said order came to be challenged in the L.C. Suit No.3566 of 2003. The trial court noted that the suit structure was an extension of Kitchen/bath rooms and it was an unauthorised structure as pointed out by the Corporation. In a connected matter i.e. A.O. No.595 of 2003 this court had directed the Commissioner to visit and submit a report and the report copy is placed on record. This report also indicates that the appellant-plaintiff did carry out some alterations in his flat and perhaps he added one more bath room. Under the circumstances the reasoning given by the trial court in dismissing the Notice of Motion cannot be faulted with.

3. The appeal, therefore, fails and the same is

hereby dismissed in limine.

4. The learned counsel for the appellant makes an oral application for stay. The application is rejected.

(B.H. Marlapalle,J.)